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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No: 032931/0253

In re patent application of
MURDIN, Andrew D. *et al.*

Serial No.: 09/868,987

Group Art Unit: 1645

Filing date: December 23, 1999

Examiner: Padmavathi Baskar

For: CHLAMYDIA ANTIGENS AND CORRESPONDING DNA FRAGMENTS AND
USES THEREOF

16
Linda
8-14-03

PETITION FOR REVIEW OF RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants hereby petition the Commissioner under 37 C.F.R. §1.144 for review
of the restriction requirement.

The Examiner has made the Restriction Requirement final in the Office Action
mailed on February 28, 2003. In rejecting Applicants' traversal on the grounds that the
claims are unified by a single inventive concept and that there is unity of invention in all
the pending claims, the Examiner states at page 4 of the Office Action:

It is the position of the Office that the expression special technical
features shall mean those technical features that define a contribution
which each of the claimed inventions, considered as a whole, makes
over the prior art. However, Kalman et al, (GENEMBL, Accession
Number AE001641, 12/1/98; reference A57 on PTOL-1449). (*sic*)
Disclose i.e., a nucleic acid molecule comprising SEQ ID NO:1,
therefore it does not constitute a special technical feature by definition.
Therefore, lack of unity is present. (*Emphasis added.*)

Applicants submit Exhibit A, which is a printout from the NCBI sequence
database showing the Revision history of sequence Accession Number AE001641. The

06/30/2003 NH0HARM1 00000121 09868987

03 FC:1460

130.00 0P

revision history of a sequence on the NCBI database is found at
<http://www.ncbi.nlm.nih.gov/entrez/sutils/girevhist.cgi>.

Exhibit A states "Accession AE001641 was first seen at NCBI on Mar 8 1999 17:32". The Examiner is therefore incorrect in stating that the date of the reference is December 1, 1998. December 1, 1998 is actually the date Accession AE001641 was submitted, not the date it was first publicly available.

Applicants' pending claims relate to SEQ ID NOs:1 and 14 and are fully supported by priority application U.S. No. 60/113,281, filed on December 23, 1998, specifically at Figures 1 and 2 which disclose SEQ ID NOs:1 and 14. The claimed priority date is December 23, 1998.

Since Accession AE001641 was first publicly available after the claimed priority date of the present application, SEQ ID NOs:1 and 14 do constitute a special technical feature by definition. There is unity present.

The Commissioner is requested to review and withdraw the restriction requirement.

The fee for filing a petition under 37 C.F.R. §1.17(h) §1.182 is \$130.00. A cheque for this amount is enclosed herewith.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a cheque being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Date: June 26, 2003

Respectfully submitted,
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Canada, K1P 5Y6

Sequence Revision History

PubMed Nucleotide Protein Genome Structure PMC Taxonomy OMIM Books

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Genes
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provides
curated
information for
human, fruit
fly, mouse, rat,
and zebrafish

Revision history for "AE001641"

GI	Version	Update Date	Status
4376855	1	Dec 1 2000 9:38	Live
4376855	1	Oct 30 2000 12:10	Dead
4376855	1	Mar 8 1999 17:32	Dead

Accession AE001641 was first seen at NCBI on Mar 8 1999 17:32

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